

BY THEODORE HELINE

CAPITAL PUNISHMENT

Historical Trends Toward Its Abolishment

By Theodore Heline

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We shall one day come to look upon crime as a disease. Physicians shall displace judges and hospitals the gallows. We shall pour oil and balm where we formerly applied iron and fire, and evil will be treated in charity instead of in anger—a change simple and sublime. The gentle laws of Christ will penetrate at last into the code and shine through its enactments.

-Victor Hugo

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CHAPTER I

THE TREND TOWARD ABOLISHMENT

Capital punishment is on its way out. A growing humanitarianism, supported by reasons based on centuries of experience, is demanding the abolition of the death penalty.

This demand has now become loudly vocal. In recent years at least three extraordinary situations in American legal history have served to bring the issue into sharp focus and to arouse the serious concern of peoples far and wide. The first of these three cases developed in Massachusetts in the Nineteen-Twenties, the second in California in the Nineteen-Fifties and the third in Illinois in the early Sixties. In the order of their sequence these three cases were those of Sacco and Vanzetti, the second, Caryl Chessman, and the third, Paul Crump. The circumstances attending the trials and the executions of these men were such that millions upon millions were aroused as never before to a serious consideration of the social, legal, moral and spiritual aspects of the death penalty.

The results of such a popular examination of the wisdom and efficacy of the death penalty as a deterrent to crime and the more searching questions arising out of a developing humanitarianism and deepening sense of the sanctity of life, are certain to affect beneficent modifications in present penal codes and to greatly advance the time when capital punishment will be universally abolished. Some gains directly attributable to the cases in question are already to be recorded.

There can be no doubt that such gains are dramatically reflected in a report issued in September, 1964, by the U.S. Bureau of Prisons. The report showed the decline for the year past to have been greater than any year since the Bureau began issuing its annual reports thirty-four years earlier, or in 1930. By decades the decline in executions in the fifty States and Federal Jurisdictions reads as follows: In the 1930s they averaged 167 a year; in the 1940s, 128 a year; in the 1950s, 72 a year and in the 1960s to Sept., '64, 42 a year. Thus we see that the trend toward the complete renunciation of this surviving practice of less civilized times is unmistakable.

It will be helpful to recall some of the specific events and circumstances that have brought this question so prominently to the fore

in the public mind in our time. Moreover, since they are the prime sources of the freshly activated movement directed toward the abolition of the death penalty, they are of such significance that to ignore them in this dissertation or to pass them by casually would be to emasculate the subject of the very inner forces that have brought it so strongly to the attention of the people at large. A present study of capital punishment and the slow but sure and steady progress that is being made toward its abolition could not be treated adequately without a consideration of the salient features of specific cases in which living, pulsating forces have become linked to abstract ideas in such a dramatic manner as to have tremendously advanced the cause of the abolitionists.

The details of the cases in question had such extensive coverage through all the news media at the time of their occurrence that they became familiar to almost everyone. The details soon fade out but not so the emotional and spiritual impact that events of such significance make on individuals and society at large. Nor can the disturbing, soul-searching questions they pose be dismissed until the whole issue of capital punishment is resolved in harmony with divine law and order.

CHAPTER II

CURRENT DEVELOPMENTS

The Case of Sacco and Vanzetti

The previously mentioned Massachusetts case of Sacco and Vanzetti put the spotlight on capital punishment in the Twenties as did the later cases of Caryl Chessman and Paul Crump in the Fifties and Sixties. An interval of nearly four decades had not erased the memory of the fate that overtook the two Italian immigrants who were convicted on circumstantial evidence of murder to which they pleaded innocent to their last breath and of which many believed they were not guilty, but for which they were put to death.

The case became highly controversial and emotionally disturbing. It became the serious concern of peoples far and wide. Various organizations came to the aid of the convicted men. With contributions collected from the general public the case was in the courts over a period of seven years. Pleas for clemency came from many prominent public figures. Newspapers here and abroad gave a large amount of space to the case. There were mass meetings and demonstrations. Bombs were set off in New York and Philadelphia. Officials connected with the case were bombarded with petitions mingled with threats,

As in the later Chessman case the long trial took on international significance and the execution called forth a great deal of harsh criticism in many foreign quarters, not only for the manner in which the case had been handled, but for the insensibility they attributed to the American people as a whole for not rising up in more vigorous protest than they did over what was considered a gross miscarriage of justice.

Dramatizations of the Tragedy

"The flaming controversy that was ignited four decades ago... still burns hot," observed a writer in a June, 1960, issue of Life. "The story of the poor shoemaker and good fishpeddler," continues the writer, "is now being told in a searing play on TV and in an opera by Marc Blitzstein to be auditioned by the Metropolitan next season. Like all the many novels and the plays about them, the TV drama portrays Sacco and Vanzetti as folk heroes who are railroaded to the electric chair in a colossal frame work.

"The play recounts how Sacco and Vanzetti were scooped up by police after a double murder in South Braintree, Massachusetts. They were admitted anarchists who preached overthrow of society in broken English and they carried loaded revolvers. Witnesses whose testimony was impugned by many students of the case, linked them to the crime. But the script lays their conviction to hysteria over foreign radicals, blaming a prejudiced judge, bigoted jury and pussy-footing Governor for flaunting justice... The fact that the case itself had never died bears out the prophetic cry by Vanzetti: 'That last moment belongs to us. That agony is our triumph!' To paraphrase a Shakespearean line,

Death made no conquest of these conquerors; For now they live in fame, though not in life.

Dramatizations of both the Sacco and Vanzetti and the Chessman cases were also shown on the screen shortly after the California execution. It is also significant that the *Encyclopedia Britannica* contains a report of the former case thus indicating the important place it has come to occupy in the history of jurisprudence and the progressive development of social conscience.

The state of Massachusetts in which the tragedy of Sacco and Vanzetti occurred still retains the death penalty but there is no doubt that the remembrance of the case has had a bearing on the fact that it has not had a single execution since 1947. Death sentences have been commuted invariably to life imprisonment.

Thus the trend toward the abolition of the death penalty continues to advance from both negative and positive factors. From the one direction comes a revulsion to everything connected with the whole sorry business of the death penalty. From the other direction forces are at work that grow out of a better informed public, a gradual lessening of the desire for revenge and the development of the spirit of compassion. And so each of the specific cases under consideration are of such a nature as to lend strength to the forces that are making for a more humanized society in which the State will be held no less guilty than the criminal who takes the life of another human being.

Thus, for example, a writer in a magazine article that appeared shortly after the Chessman case had become history stated that partly as a result of that celebrated case there was certain to be strong attempts in at least six States, in addition to those that have already abolished the death penalty, to wipe the law off the books.

In this connection the following quote is from an article that appeared in the Christian Register, January, 1929:

"Within a few days, two prison officials adjudged capital punishment. The warden of the Massachusetts State Prison died, after a breakdown due to his dreadful office of executing prisoners condemned to the electric chair. The most awful experience through which he passed, in the fateful summer of 1927, was the committment of the lethal current to all that was mortal of Sacco and Vanzetti. That judicial dealing of death has become an event of horror for many citizens; entirely apart from the question of legal right, the memory of it haunts ordinary conscience. Warden Hendry bore our burden as a society. He died for us vicariously.

Before Hendry was committed to his rest, Warden Lawes of Sing Sing made a quiet, solemn exhortation that we stop this super-crime of a life for a life. "It is coming over us like a pall that we are still jungle-minded, we who boast our religion, and our reaching up to heaven with an outstretched arm—while with the other we send to destruction the least of these, the most tragic, our brethern? Think!"

Religious bodies are also re-examining the whole issue of capital punishment as evidenced by the action taken only a few days after Chessman's execution by a synodical meeting of the Protestant Episcopal Church's Province of the Pacific, when four hundred attending delegates overwhelmingly approved a resolution calling for new legislation to rehabilitate violators of the law rather than to take their life. Reasons given at the meeting were that the death penalty had failed demonstratively to deter capital crimes, to rehabilitate the criminal and to protect society."

Also, it was only four days after the Chessman case had brought such terrific pressure on Governor Brown to commute a death sentence to life imprisonment, that he called for a Constitutional Amendment to give California Governors exclusive powers in clemency cases. Under the present law the Chief Executive cannot commute to life imprisonment in cases involving a prior crime or crimes to that for which the death penalty was given, without a recommendation for clemency from the State Supreme Court. Yet public pressure in cases of this kind bears down on the Governor, not on the Court. Hence, the Governor's request that if any individual is given the power to exercise clemency, it should be given him without restriction.

CHAPTER III

CURRENT DEVELOPMENTS-CONTINUED

The Case of Caryl Chessman

Even more sensational and arresting in its many aspects than the Massachusetts case is that of Caryl Chessman. It cut still deeper into the public conscience and penetrated into yet wider areas. It had literally the world looking on and listening in. The reactions to what the people saw and heard were on the whole for the man and against the State. Justice or the law had become irrelevent in the case, and "the man who had beat the executioner eight times was favored to beat him in the ninth."

We recount the essential facts not so much for those to whom they are still clearly in mind but for others coming on who are to be looked to in the days ahead to carry forward the humanitarian cause of abolishing a survival of barbarism that belongs to the past.

Very briefly, these are the facts: In 1948 the youth Chessman committed a crime for which he was condemned to die. It was not for murder. It was for kidnapping, a crime not calling for capital punishment in any other country in the world. It was the sentence of death imposed under the so-called Lindbergh law, a law that was in force at the time of Chessman's conviction but which had been repealed before the sentence was carried out. Since in the interval this law had been tempered to milder measures many argued strenuously that the sentence originally imposed upon the convict should be correspondingly modified.

For twelve years after conviction Chessman was an occupant of "death row" in California's San Quentin prison. Through uninterrupted legal maneuvers his execution date was deferred, as above indicated, no less than nine times. Probably never before in the history of jurisprudence has a man, under due process of law, been led so many times over so long a period up to death's door and then back again to face up to the impending ordeal. Nor may there ever have been a case illustrating more poignantly the painful consequences to the accused of the law's delay on the one hand, and on the other hand a case so conspicuous in exhibiting the manifold legal provisions devised by society to safeguard any of its members from the possibility of suffering a like fate through a miscarriage of justice.

Character of the Prisoner

But the most arresting feature in the prolonged proceedings of the criminal case was the character of the condemned man around whom such a complexity and multiplicity of legal currents were swirling for so many torturous years. While there was a natural revulsion in the public mind at the thought of the crimes he had committed and for which he had been incarcerated, as time went on this was greatly mollified by the way the convict met his fate. He was obviously not growing meaner and harder, but on the contrary, giving evidence of undergoing a process of rehabilitation.

Here was no ordinary prisoner. He didn't say die just because the court said so. He decided to do battle for his life even though his condition was such that under normal circumstances there was virtually nothing to offer the slightest hope of even so much as deferring the sentence, much less escaping it. He had no social or professional standing, no devoted family or friends to work in his behalf, no money during the first years of his imprisonment with which to engage legal counsel to plead his case and no influential contacts in high places to favor his cause. He was a nobody with nothing to his credit but his evil deeds. He was at first a mere number in a prison cell.

But he did not long remain so. This man was not felled by the doom that hung over him. Against what must have seemed like hopeless odds he mustered the courage, strength of will, and self confidence to do something about his case. He did. He made it a cause celebre.

Physically bound, his mind was free, his spirit creative. He studied law, became an advocate on his own behalf. He once said he had "read or skimmed 10,000 law books." The legal briefs which he addressed to State and Federal Courts from his cell were widely acknowledged as expert in style and logic. They were almost incredibly numerous. In all he carried his appeals twice to the Superior Court in Marin County; once to the State Appellate Court; eleven times to the U. S. District Court; five times to the United States Supreme Court.

While this man finally lost his prolonged legal battle for survival, his repeated pleadings were not without positive results. "There is a common misconception," he said, "that I have been denied each

time I have gone to the U. S. Supreme Court. The fact is that I have won important decisions on points of the process of law which have real meaning to every person accused of a crime."

This active and fertile-minded prisoner also authored four books all of which he succeeded in getting into print. In 1954 the first of the four books came out. It is titled Cell 2455 Death Row. A half million copies were sold and it was translated into a dozen languages. Then followed Trial by Ordeal in 1956 and Face of Justice in 1957, both of which also became best sellers. In these volumes the author described his early life, his trial, and what happened to him after he entered "death row." The last volume, published the day after his execution, is a novel titled The Kid Was a Killer. It was his expressed intention to go on writing in the event his life would have been spared. Chessman undoubtedly became the most articulate prisoner ever placed behind bars.

After the success of his first book he was able to retain a group of attorneys to help him with the many judicial maneuvers. It is altogether a phenomenal story and one which the film industry did not fail to exploit for the wide interest its mere unadorned factual recital commanded. The first of the two productions carried the same title as the convict's first book; the second, Justice and Caryl Chessman. These films needed no additional ingredients or dramatic situations to make them box office draws and to grip the mind and heart and imagination of the public witnessing their performance.

Here was the story of a delinquent youth who preferred robbery to work. He had grown up in an environment without benefit of home discipline. His father was said to have been on the harsh side and his mother, due to an accident, was a bedridden invalid. He was a neglected youngster and, in the words of a childhood acquaintance, appeared to be "sort of a lost soul." According to the testimony of his ex-wife, he was not mean or cruel but wayward, irresponsible and indifferent to the restraints of civil and moral law. Petty violations led to more serious crimes but, according to his own testimony, not to the crime for which he was given the death sentence.

The condemned man had not been confined long before his mental brilliance attracted wide attetion. This became an asset in his long struggle for life. He did not let his mind deteriorate in his isolation. He improved it. His I. Q. rating went up. When last measured a few weeks before his execution it stood at a point said to be possessed by only the top three per cent of our population.

Never until the clock was ticking away the last hours before his eighth, or next to the last appointment with death, did he finally

resign himself to meet his doom. Nor could he in his last moments be persuaded to ask for clemency. To do so, he maintained, would imply a guilt of the kidnapping crime for which he was to die but of which he consistently pleaded innocent. He declared he knew the identity of the "red light bandit" but would not reveal it because he said it involved too many others. "When I am executed," he said to his attorneys, "I want to hold my head high and retain my self-respect."

Chessman was reported by one of his attorneys to have been the father of a seventeen year old daughter. It was fear for the life of this daughter, one of his attorneys said, that kept Chessman from disclosing the identity of the "real red light bandit." She might have been the object of revenge had her father named the man he claimed committed the crimes for which he, Chessman, died.

As the attorney observed when relating this feature of the case, "It was a tough decision for Chessman. He was living there on death row where the code is different from yours or mine. After all, on the one hand there was his own life and on the other that of his daughter. And even if he took the course that harmed his daughter, it might not save his own life."

The name and whereabouts of the daughter were not divulged on grounds that to do so would serve no good purpose.

Just before the next to the last date set for his execution on February 19, 1960, he told reporters that he felt no sense of defiance or rebellion at the fate that was about to overtake him, and that he wished to indicate this by sending a telegram to Governor Brown, who alone held the power to grant another reprieve, to say that he would have to act according to the dictates of his conscience. There was apparently no sign of self-pity, no trace of hatred or bitterness directed toward either the State's Chief Executive or society at large. From the wording of the wire it would also appear that neither his agnosticism nor his crimes had deadened his recognition of a moral law within which we call the voice of conscience.

Symbol of a Humane Cause

At this point in the proceedings something of universal significance had developed in connection with this "man of no importance" and long-time convict. An obscure individual, one Caryl Chessman, had become an internationally known personality. He had become a symbol of a cause. By a combination of extraordinary qualities and circumstances an ordinary human being had taken on a universal character. He had sparked a movement calling for the abolition of

capital punishment. A people's conscience was on trial. Could it justify an act by the State which it condemned in an individual? Never before had so many millions raised their voices in a plea for the abolition of the death penalty. It was a human cry for mercy with justice, for a greater recognition of the sacredness of life, and at its deepest levels a manifestation of that redeeming spirit which God implants into the heart of humanity, however dimly aware people may be of the innermost source of the humanitarian idealism to which it gave such emphatic expression in this particular instance.

The situation had raised the question of capital punishment, as it had perhaps never before been raised, from out of the abstract into the concrete, from the impersonal into the personal, from what it appeared in theory to what it really was in practice. It seemed to shift the issue in the public mind from what logic alone had to convey on the subject to the testimony contributed by warm human emotion, thus modifying the conclusions arrived at by rigid adherence to cold legalisms. All of this has undoubtedly brought large numbers of people who have not hitherto thought seriously about the question of capital punishment, who have formerly thought it to be right and necessary, to now take a positive stand for its abolition.

Sentiment favoring clemency for the condemned man had been building up at an accelerating rate both here and abroad. It mounted to a climax as the execution day set for February 19th drew near. Editorials appealing for clemency appeared in newspapers all over Europe and throughout South America. In London six of the nine dailies gave the story first place. One of these papers, the Mail, in entering its plea to the California Governor for clemency observed that "anyone can be persuaded to give justice to the innocent... It takes real conviction to be just to the guilty."

The Vatican newspaper, the Observatore Romano, protested against carrying out the death sentence on the grounds that the convict had already been subjected to penalties more than enough to satisfy the demands of the law. Said its editor, "I think it is a terrible thing to happen... We have to deal with this thing with a sense of humanity."

In Paris there were street demonstrations. In Norway and Sweden a total of 113,337 persons signed petitions for mercy. The Belgian League for Human Rights sent "pressing appeals" to American authorities. A Brussels newspaper observed that if the impending execution were to be carried out "it would prove that in the country of freedom there exists a type of capital punishment even more ter-

Petitions bearing two and a half million signatures came from Brazil. From Uruguay, by way of our State Department in Washington, came a message which carried tremendous weight. More than any other communication or demonstration it pointed up the concern the case had become in top governmental circles and the adverse effect it was creating in our international relations.

Outer Clamor from Inner Propulsion

And so the case spread in significance until it had created domestically political overtones and disturbing international rumblings the effect of which stirred up a fresh revulsion against the infliction of the death penalty. More and more the question raised was not just if this one man should be put to death but if capital punishment could ever be justified.

A climactic hour had arrived. It was as if it had been made to order for the express purpose of advancing a specific humanitarian reform. We may well suspect that the deep and moving concern which had developed around a single individual was such that it was seized upon by superior powers, unseen but ever present, to further an important humanitarian reform whose time had come.

That the convict himself had become conscious of perhaps serving just such a purpose is indicated by a remark he made to reporters on the day before the February nineteenth execution date: "It might well be that if he [the Governor] lets me go to my death, it might ultimately bring about the abolition of the death penalty in California. If I were sitting in his chair I might well let me die for that purpose."

On this same occasion he expressed the feeling, which was no doubt also a clear conviction, that while he had been guilty of crimes against society he was now somehow atoning for his evil deeds by his death. Said he: "The most important thing I believe I have done is to focus attention on the existence of the Death Rows and the practice of capital punishment. I think that since this was a subject which cried out for re-examination, the long many years I have spent here and the books I have written will lead to that re-examination.

"Everyone realizes that people are more interested in people than they are in problems. As a result, the intense controversy over the sort of person I was and am has led, I believe, people to inquire about what sort of person comes to Death Row and why. I certainly

hope this experience I have gone through never has to be suffered by anyone else in the history of this country."

As the hour of February 19th was fast approaching for the execution to be carried out, unbearable pressure was converging on the Governor of California in whose hands alone lay the power to grant yet another reprieve. It was given. It was granted for a sixty-day period.

The execution date was set aside for two principal reasons. One was an asserted belief by the Governor that by so doing he might prevent demonstrations against President Eisenhower during his approaching tour of South America where sympathy for the condemned man and their unheeded pleas for mercy had aroused wide-spread hostility that extended even to our entire nation. The other reason for yet further delay was a wish to have the Legislature rule on the death penalty. By its repeal the law-makers could save the life not only of the one man condemned to die, and who had momentarily captured world attention, but that of any other person now or in the future to suffer similar condemnation in the State of California. The issue was thus broadened from a consideration of a single individual to consideration of everyone who had run afoul of the law exacting the supreme penalty.

That invisible forces were operating alongside of outer pressures to somehow lend added strength to the movement to abolish capital punishment also appeared in the seemingly chance incident that led to the reprieve. In the judgement of the Governor it was not just chance but, as he expressed it, as if "by the hand of God."

From a stack of unread letters and telegrams he picked one that carried the weight, not only of an individual or a religious body or some crusading reform organization, but of peoples and governments. It was a message from Uruguay to our State Department in Washington and by it forwarded to the Governor expressing serious concern for our international relations if the impending execution be carried out. Then it was that the Governor shifted the burden of responsibility to the people of California. The issue was transferred from person to principle, from an individual to society.

Later, in addressing the special session of the Legislature, Governor Brown set forth reasons for abolishing the death penalty. Since this is a document that is certain to assume historic importance in the centuries-long efforts to humanize treatment of all the unfortunates in our midst, be it from poverty, disease, deranged minds or the criminally disposed, we quote from it at length.

As an act of public conscience and from the experience of over a decade and a half in law enforcement work, I ask the Legislature to abolish the death penalty in California. There are powerful and compelling reasons why this should be done. It is not based on maudlin sympathy for the criminal and depraved. And although I believe the death penalty constitutes an affront to human dignity and brutalizes and degrades society, I do not merely for those reasons urge this course for our State.

I have reached this momentous resolution after 16 years of careful, intimate and personal experience with the application of the death penalty in this State. I have had a day-to-day, first-hand familiarity with crime and punishment surpassed by very few.

Society has both the right and moral duty to protect itself against its enemies. This natural and prehistoric axiom has never successfully been refuted. If by ordered death, society is really protected and our homes and institutions guarded, then even the most extreme of all penalties can be justified.

But the naked, simple fact is that the death penalty has been a gross failure. Beyond its horror and incivility, it has neither protected the innocent nor deterred the wicked. The recurrent spectacle of publicly sanctioned killing has cheapened human life and dignity without the redeeming grace which comes from justice meted out swiftly, evenly, humanely.

The death penalty is invoked too randomly, too irregularly, too unpredictably, and too tardily to be defended as an effective example warning away wrong-doers.

In California, for example, in 1955, there were 417 homicides. But only 52 defendants were convicted of first degree murder. And only 8, or 2%, were in fact sentenced to death. There can be no meaningful exemplary value in a punishment the incidence of which is but one to 50.

Nor is the death penalty to be explained as society's ultimate weapon of desperation against the unregenerate and perverse... If this most drastic of sanctions could be said substantially to serve the ends of legal justice by adding to our safety and security, it would deserve some greater place in our respect. But no available data from any place or time that I have been able to find from research over many years gives support to the grand argument that the presence or absence of the death penalty exerts any substantial effect upon the incidence of homicide. Indeed, the report of the British Royal Commission on Capital Punishment, one of the most universally respected and objective studies ever made on the subject, is that there is no clear evidence that the abolition of capital punishment has ever led to an increase in the homicidal rate... The Royal Commission concluded, as has nearly every other scientific survey of the problem, that factors other than the presence or absence of the death penalty account for the homicide rate in any given area.

Specifically, the death penalty has been abolished in nine states,

Minnesota, Wisconsin, Michigan, Rhode Island, North Dakota, Maine, Alaska and Hawaii [Oregon and Iowa have since been added] and in 30 foreign countries...

In none of these states has the homicidal rate increased, and indeed in comparison with other states their rates seem somewhat lower... A map of the United States in which the various states are shaded to indicate their murder rate over a ten-year period...shows graphically that the states without capital punishment along with several others which do retain the death penalty have the least incidence of homicide. And in striking contrast, twelve southern states, all of which too callously apply the death penalty, have the highest homicide rate of all.

This last fact points up the most glaring weakness of all, and that is that, no matter how efficient and fair the death penalty may seem in theory, in actual practice in California as elsewhere it is primarily inflicted upon the weak, the poor, the ignorant, and against racial minorities. In California, and in the Nation as a whole, the overwhelming majority of those executed are psychotic or near-psychotic, alcoholic, mentally defective, or otherwise demonstrably mentally unstable. In the experience of former Wardens Lewis Lawes of Sing Sing and Clinton P. Duffy of San Quentin, seldom are those with funds or prestige convicted of capital offenses, and even more seldom are they executed.

As the Governor marshalled added facts and figures to support his proposition that capital punishment should be abolished he said he believed the lawmakers would find "compelling evidence of the gross unfairness and social injustice which has characterized the application of the death penalty." Said he, for the most part those executed were "products of the hinterlands of social, economic and educational disadvantage."

He spoke of the "miserable, bewildered sacrifices" made to the executioner and the responsibility that society as a whole must take for the sad fate of the executed. "I have seen in the files and transcripts, in the books which we have now closed upon them, that who they were and where they were, played just as big a part in their ultimate condemnation as what they did. And I also saw that, but for just the slightest twist of circumstances, these nineteen might have received a term of years as did the other ninety-eight per cent of those who killed, and in these cases, too, there looms the ugly chance that innocent men may be condemned, however careful are our courts and juries. Our judicial system gives us pride, but tempered by the realization that mankind is subject to error."

The Governor then cited a case in which a man sentenced to die was "pardoned for what he had never done. But for the grace of God, there might now be on our hands the blood of a man, poor, ignorant, friendless—and innocent."

The Governor's pleas came from a deep "conviction and conscience." He knew the resistance the Legislature held toward his plea. Since 1933 bills to abolish capital punishment had been presented no less than sixteen times, with most of the measures dying in committees. There was no question in the Governor's mind that it would be so again, but this did not intimidate him from going on record as to where he stood on the matter. "Public leadership," said he, "must face up to the humane as well as the economic and social issues of our communities. It is not enough for those charged with public responsibilities to be content to cope with just the immediate and readily attainable—the basic and long range values of our society must also constantly be brought into fuller reality. I believe the entire history of our civilization is a struggle to bring about a greater measure of humanity, compassion and dignity among us. I believe those qualities will be the greater when the action proposed here is achieved—and not just for the wretches whose execution is changed to life imprisonment, but for each of us."

There can be no doubt that here was a manifesto of faith, conviction and conscience. There was no compromise with ulterior motives. Any adverse effects which the Governor's stand on this controversial question might have on his political future were apparently completely brushed aside in obedience to an inner compulsion to serve the good, the right, the noble. They were spoken not to advance personal ambition, but to serve human welfare and divine purpose. Governor Brown's message, spoken as it was when all the world was listening, will undoubtedly rate as one of the major pronouncements leading to this humane consummation.

Final Chapter in the Chessman Case

Chessman was granted another reprieve but that only; the clemency for which so many pleaded was not forthcoming. As previously stated, the California Constitution does not give its Governor the authority to commute a death sentence in cases where, as in this instance, the criminal had been convicted of one or more felonies prior to the one for which he was to die, except it be with the recommendation of the State Supreme Court. Such recommendation was

not granted. Appeals to the Court to extend clemency were repeatedly refused. No less than four times, each time by a vote of four to three, its decision was in the negative. And so another execution date was set. It was the ninth, and last. On May 2, 1960, Caryl Whittier Chessman paid the supreme penalty as exacted by the State.

During the sixty and twelve days that intervened between the reprieve and the execution, sentiment favoring clemency was again running high. The American Friends Service Committee, the Humanist Council of Southern California, the Independent Student Union, and other organizations in many parts representing every strata of society, were active in promoting the abolitionist cause which had become so inextricably and so movingly conjoined with the man who had become a symbol of a penal reform to be realized.

The Socialist Workers Party sent a wire asking the Governor to spare Chessman on the grounds that he had already been subjected to unconstitutional, cruel and unusual punishment. The agitation was not just sentimental clamor on behalf of a lone personality. After all, there were at this time eleven others in San Quentin's death row sentenced to die in the course of the next few weeks. It was for them, too, and others in like circumstances everywhere, that the abolitionists were doing battle. But what it took to give the movement such a tremendous impetus was the spotlight that one of the condemned men had drawn to himself, thus dramatizing the issue at stake in the image of a human personality. No matter how many and how heinous had been his crimes, he was, after all, a fellow human being, and as such touching millions of hearts with a sense of that divine quality of mercy without which, in these oft-quoted words of Shakespeare's "doctor of laws," Portia, "none of us should see salvation." And mercy was the burden of a cablegram sent Governor Brown by the editor emeritus of the Vatican's Observatore Romano. "In reference to those already published repeatedly," read the message, "I present new invocation for mercy."

So from a local concern there had developed an issue that spread across the world. From the initial question as to whether the particular convict should be executed, there followed the searching query if it was right that it should ever happen to any human being. Individuals and society at large had been aroused to examine anew the wisdom and morality of capital punishment. This is how one member put it to the California Legislature's committee that held hearings preliminary to taking a vote on retention or repeal of the death penalty: "What we do here," he said, "will be noted all over the nation and in the distant corners of the world. It will characterize

California either as a state of sensitive social conscience or as a state that clings blindly to a decadent concept of justice.

"The death penalty has become more and more a punishment reserved only for the weak. The strong can generally escape it. If you are black you are more likely to be executed than if you are white. If you are poor you are more likely to be executed than if you are rich. Civilized society in California abhors the thought of taking the lives of living vegetables who linger in our state hospitals, and recoils at the thought of mercy killings of the hopelessly ill and suffering. Yet this same society retains the penalty of death as a supposedly necessary expedient. If it is wrong for an individual to take a human life, why is it less wrong for the state to do so?"

Now it is one thing to consider this question in the abstract; it is quite another to face up to it in the presence of a human personality who, as in this instance, by means of today's mass publicity media, became a familiar figure to a great number of people. The composite picture of a fellow human being struggling to save his life and succeeding in doing so for a period of twelve years against the overwhelming power of the State, aroused the emotions of people everywhere. It set them arguing for or against the man according as to whether attention was centered primarily on the crimes he had committed or on the rehabilitation that had apparently taken place to a degree entitling him to merciful consideration. Where the thought was centered on the injuries the man had inflicted on others, the feeling was to strike back and apply the extreme penalty. But even among those so inclined it was not uncommon to hear the sentiment expressed that capital punishment should be abolished.

Foreign Press Pleads for Clemency

But the overwhelming sentiment, especially in foreign lands, was for extending clemency to the man who had served to bring the broad issue of the death penalty to the fore, and also to take action to strike out capital punishment from all penal codes as a practice unworthy of civilized society. It was as if a sky writer had written across the heavens: "Primitive—Inhuman—Futile—Let Conscience and Compassion Speak. Abolish the Death Penalty!" Here was an advertisement for a humanitarian cause for all to see. It was paid for—with the life of a man who, by his own confession, counted the cost not too high if it contributed toward effecting a reform that would save other unfortunates coming after him from suffering a like fate. In his final hour it was as if he had said, "For this purpose was I born."

Less commanding in space than the open sky above, but weighty in substance was a full-page advertisement in the Los Angeles Times captioned, "Conscience, Chessman and Capital Punishment." It carried an impressive roster of a hundred and twenty-six names, including persons of world eminence such as Albert Schweitzer, Aldous Huxley, and others.

Then when the execution actually occurred, a veritable psychic temblor was felt far and near. The conscience of the civilized world was troubled. Something ugly had come to pass. It had never before been experienced so poignantly in all its horror. The news coverage now possible by press, radio and TV had brought all the details leading up to the tragic end, and the shuddering details of the actual execution so vividly before the eyes and ears, the mind and heart, of the millions upon millions, that a mass revulsion to the barbaric survival of capital punishment rose to high heaven.

It was front page news the country over. And in Europe, South America, and also in more distant lands, big black headlines announcing the event spread across the pages of all leading newspapers. The news was blazoned in the British press, many papers giving detailed descriptions of the execution, details that are never disclosed about British executions. And there were editorials. The London Telegraph said that it had been a case "whose squalor and horror are a blot on civilization. For once," it added, "it is true and not sanctimonious to be glad that a Chessman case could not happen here."

The London Herald's editorial was captioned "A Day of Shame." "Right-minded people in the United States," it said, "must make sure that it could never happen again." A British Member of Parliament writing in the London Empire News called the execution a "disgrace to America."

"Unfortunate," said Andre Maurois, French novelist. In Rome, the Vantican newspaper, Observatore Romano which had carried editorials voicing the conviction that under punitive law the man had suffered more than full measure in the many years he had been held dangling before the lethal chamber that claimed him, denounced the execution as barbaric. One Italian newspaper read, "Chessman Killed in Gas Chamber: Cruel America." Crowds grabbed the special editions as they came off the press. Newspapers in Spain held up editions waiting for the flash on the outcome of the final legal appeals. Cafes in Lisbon hung placards announcing the death of Chessman.

While a few were reported to have expressed their belief that the condemned man had received his just deserts, they were drowned

out by a chorus of protests that the execution was "barbaric" and "inhuman." The tendency was to blame all Americans and the United States for Chessman's death.

Many prominent opponents of capital punishment issued statements when the execution was announced. Lord Birkett, a former High Court judge and a Lord Justice of Appeal who was a prominent criminal lawyer before his elevation to the bench, said:

"I don't want to interfere in other people's procedure, but I can only say that as far as English procedure is concerned I think it is rather cruel to execute him at the end of all this time."

Many in France expressed their feeling about the case in similar words. Radio Stations all over Europe as well as in America interrupted programs to flash news of the last hour developments. Crowds gathered outside a Rio de Janeiro newspaper to protest and to denounce the United States as a "miserable country." Incidentally, Brazil has refused an extradition treaty with the United States because of Brazilian opposition to capital punishment.

Conscience and Compassion

In some instances the feeling against the United States erupted into open anti-American outbursts. In Portugal, windows in the U. S. Embassy library in Lisbon were shattered by stones hurled by angry demonstrators. A crowd of 150 students demonstrated outside the U. S. Embassy in Montevideo, Uruguay, shouting "murderers" and "assassins." Police in Stockholm sent extra radio cars to the vicinity of the U. S. Embassy to head off any possible attacks on the glass and concrete building. Feeling ran particularly high in Scandinavia. The profound impression which the events had made on the general public everywhere was still further attested by the fact that the fate of this one man was given greater prominence in the news media than the current political crisis in Italy, the revolution in Korea, the riots in Turkey, and yet other events that normally rated top captioning. Altogether the world experienced an extraordinary phenomenon. It was not, therefore, something to be brushed aside as a mere fleeting emotional outburst. It had profound meaning. It was something that cut deep into the conscience of masses of mankind.

It has been suggested that one reason why so many European peoples protested so loudly and spontaneously the execution of this man who had momentarily captured the spotlight, was the instinctive, as well as thoughtful, revulsion against taking human life resulting from the sanguinary war years through which they have lived these past few decades. There has developed an increasing reluctance to apply the death penalty. More and more they have come to disbelieve in its efficacy as a deterrent to crime, to accept imprisonment as sufficient protection to society, and to feel a moral repugnance at taking a life under the cold and calculating direction of the State. Attention shifts more and more from inflicting punishment to that of administering qualities of mercy leading to rehabilitation.

Chessman said he wanted to live. He wanted to go on writing. But he had disciplined himself to accept calmly and stoically whatever fate awaited him. At the time of his final appointment with death his fate was being held in a delicate balance up to the last minute. The judges of the State Supreme Court were in session deliberating for the fourth time on the last appeal that had been made to recommend clemency. As the hour for the execution was about to strike, Judge Louis A. Goodman asked his secretary to telephone the prison warden and ask for a thirty minute stay of execution. The secretary phoned immediately but dialed the wrong number. The delay before the second dialing came through was slight, but enough to fail in its purpose. It was too late. The ritual of death was already under way.

Such being the circumstances, the condemned man must have experienced conflicting emotions as between the natural desire to live and the philosophic readiness to die. Thrice before he had been within hours of entering the gas chamber, and thrice led back into his cell. He had reason to wonder if it might not be so again. "Inside of me," he said as he was about to walk into the gas chamber, "I had a feeling that the court would relent and let me live."

A Rehabilitated Individual

That this man had developed remarkable inner resources and an emotional and mental stability attained by few, became evident in his behavior and state of mind and body both during the days and hours preceding the execution and in the final moments when he was being bound to the chair in which he was to take his final breath.

In the press conference which he was permitted to hold the day before his execution, he was reported to have shown no trace of mental or emotional stress or strain. It was as if it were just another day in a familiar routine of life. The night before, he was writing letters to friends, had a midnight snack, rested, and in the morning ate a "hearty breakfast." The official routine report on the man during the night and morning hours read simply, "good, quiet, jovial."

One of the letters written in his last hours was addressed to a San Francisco newspaper reporter. Writing of his life as a "violent young psychopath," and his finally futile twelve-year fight to escape the gas chamber, he asked:

"How could he have been changed from an angry, undisciplined young man, filled with mistrust of the world and even himself, into a useful citizen?

"In larger context, where and how are we failing those we call juvenile delinquents?"

"Externally applied repression," Chessman declared, "only increases the pressures inside young humans—their conflicts, anxieties, wants, hopes and dreams. It does not recognize—because of the logical fallacies we cling to about the efficacy of punishment and retribution—that... these pressures can be given legitimate social outlet and when this is done, that the results can be positive and socially useful.

"Punishment didn't control me; it didn't relieve the pressures," Chessman contended.

He said he finally had learned to put his pressures and tensions to work in such activities as producing this letter, instead of cursing society and his plight.

The man who was put to death in 1960 was not the same man who was condemned to die in 1948. In the interim between these dates he had commenced to live to a purpose, a purpose for which he did not, according to his own word and demeanor, rebel at paying with his life.

In the letter previously referred to, which Chessman wrote Governor Brown just before he was about to meet his next to the last appointment with death, he commented on the relation that had been established between him and his fellow inmates on Death Row. "Somehow," he said, "they sensed their fate was tied to mine, and mine to a pressing social issue of far greater significance than what might, individually or collectively, happen to any or all of us."

It was this image of the man, emerging gradually in the course of the years, that created the international interest in his case and sympathy for his cause. It was not a question of guilt or innocence as it was, for instance, in the case of Sacco and Vanzetti. The plea for clemency was based primarily on the evidence he had given of rehabilitation, the social ends to which he was directing his mental brilliance and the fact that his twelve years on Death Row, his eight successive execution dates—three of which left him in uncertainty as to his fate up to within a few hours of the appointed time—this, it was held by many, should constitute sufficient punishment to satisfy the law's demand. In this connection it may be noted that in France

if something goes wrong to prevent the execution at the time set, the criminal is never again subjected to a like ordeal. He is considered to have died once and that this should be sufficient to satisfy justice. And as "the sense of death is most in apprehension," according to the foregoing count, Chessman died not once but virtually eight times before his final passing.

That the man executed was not the man who twelve years earlier entered Death Row, was the testimony of the prison warden and also of the Catholic and Protestant Chaplains with whom he had talked many times. "My relationship with him has been very cordial at all times and he has been most respectful," said Father Edward Dingberg, Catholic Chaplain on San Quentin Death Row. "Insofar as his development over the years is concerned, as I as one person observe it, I feel that there has been a change in him. In earlier years perhaps he was not so mature in his approach to things emotionally. He has matured in this sense, that he now feels it isn't a question of Chessman dueling with those who would try to execute Chessman. He has said on more than one occasion that he feels that in addition to whatever he may be able to do for himself personally, by way of relief from the death penalty, he has perhaps also contributed a service, socially, in bringing light to bear on the death penalty and all the factors and circumstances therewith connected. And I must be honest in saying, I think this is true."

Father Dingberg added that Chessman had deplored at times "the characterization of himself as arrogant and egocentric and said that this of course was a misunderstanding of the vehemence with which he expressed himself and the strength of his conviction. He really isn't that. I think here, too, this is true."

And this is how Sidney Silverman, a member of the English Parliament, expressed himself on the subject: "How can you, in a civilized community, keep a man under sentence of death for half a lifetime? If you execute Chessman in the end, you won't be executing the man who committed Chessman's crimes. He's a different human personality altogether. You might just as well take a passerby off the street and execute him to vindicate the law. You know when you convicted him, he hadn't had twelve years to mature and grow. And you allow him, under your free system, a humanitarian prison existence with access to books and music and companionship and pens and paper and typewriters and television sets; you allow him the full run of American civilization, and then have so little confidence in the effect of it that you think the man you are executing twelve years later is exactly the man you convicted in the beginning?

I can't imagine that American citizens will really tolerate this... It seems to me an unheard of atrocity. And what horrifies me a little is the appreciation I am gradually acquiring of the insensitivity of the American public to it and their failure to comprehend exactly what it is that we're getting excited about."

Certain it is that the effect of the Chessman case will continue to contribute substantially toward the abolition of the death penalty. Concrete steps in this direction were to be recorded immediately after the case was legally closed. Morally the case will remain open for a long time to come. Like the case of Sacco and Vanzetti it has in it the elements that serve to take a measure of the public conscience and to so affect it that it will never again be exactly what it was before. Such incidents take their place in history, human reform, social progress and advancement of civilization itself.

CHAPTER IV

CURRENT DEVELOPMENTS—CONTINUED

The Case of Paul Crump

Paul Crump, who was sometimes referred to as Illinois' Chessman, provides another classic case exposing man's inhumanity to man. Justly incarcerated for committed crime he was given the death sentence. Justly, too, he received successive reprieves. These prolonged his life over a period of nine years during which time he may be said to have died, not one, but several deaths. Fifteen times his execution date was set and fourteen times it had been stayed. One stay came only seven hours from death.

In the course of this extended life span he came under the humane influence of Jack Johnson, the prison warden. He became a new man, a reformed individual. He experienced a thorough-going change of nature. His sound rehabilitation was attested to by the prison warden, the prison's chaplain, the Board of Pardon, and the Governor of Illinois believed it to be true.

Said Warden Johnson, "Paul Crump is completely rehabilitated. Should society demand Paul's life at this point, it would be capital vengeance, not punishment. If it were humanly possible, I would put Paul back on the street tomorrow. I have no fear of any antisocial behavior on his part. I would stake my life on it. And I would trust him with my life."

In this connection it is important to note that when Johnson assumed his prison duties he had no strong feelings about capital punishment but in the course of his observations and experiences as a warden he ended by vigorously opposing it.

When Paul Crump was moved into the Death Row of Cook County Jail he was described as being animalistic, belligerent and filled with hate. He soon had a battle with the warden in which he came out the loser. In the course of this incident he expected to be beaten up, but he wasn't. The warden permitted no brutality to be inflicted upon the prisoners no matter how serious the provocation might be to do so. Early in his office he abolished "Death Row."

This unexpected humane reaction on the part of the warden marked the first step in Crump's rehabilitation. It also marked the beginning of a friendship between the warden and Paul that lasted for seven years. It was like a father and son relationship. Imagine the burden that the sovereign State of Illinois places upon its prison employee when it requires him to become his devoted friend's executioner. Crump requested of Johnson that if he had to die, he wanted him to press the button that would end his life. "He trusts me," said the warden. "He wants a friend to do it. It is my duty."

And so society claimed the life of one whom it had not given a fair chance. Crump was born the tenth of thirteen children in Chicago's South Side slums. When he was six his father deserted the family. At fifteen he quit school. Petty thievery led to imprisonment at sixteen. At twenty-two he killed a guard during a hold-up for which he was duly convicted. After that he lived under the sentence of death. As previously stated, he was subjected to death by anticipation over and over again. "Sometimes," said he, "just the feel of your own heartbeat can be the cruelest thing."

But there was a compensation in the repeated stays. They gave him a chance to live and to become another man. Thus, when he was finally executed it was not a criminal whose life was coldly and deliberately taken but that of a transformed character who was proving his worth as a constructive contributor to human good and social welfare. In the words of the warden, "Crump had come to realize that he had a conscience and that life was not just for taking whatever you could get, but that there was such a thing as giving. He actually became a man."

A Good Samaritan to Fellow Prisoners

Paul Crump had succeeded in overcoming his past. He became a Catholic convert, a practicing believer. He became the good Samaritan among his fellow prisoners. He studied and gained knowledge; he served, and in serving, garnered wisdom. He became a man of literary accomplishments and of great potential use to society. "I read and read and read," said he, "and some old distortions were swept away. I had thought that anything good that happened to me was all gravy, just accident. I started seeing that things don't happen by accident, but because of the good will of people and their belief in the basic goodness of man."

He also studied law, dismissed his lawyer, and wrote his own petition for a writ of habeas corpus. He read the English metaphysical poets and found that famous line in one of John Donne's poems, "No Man Is an Island," to express poignant relevancy to his own condition and experience. In a conversation with the warden he once said that "I'm just as responsible for people around me as they are responsible for me."

Crump authored a book—an autobiographical novel, Burn, Killer, Burn. "Though evil might seem to triumph," he observed, "the spirit of man will rise again."

He wrote short stories, articles and poems which were published in small magazines, and carried on an extensive correspondence with people far and wide who became interested in his case. For this the prison authorities made of him a special case by giving him a typewriter, an exception which the inmates endorsed by a thousand letters of complete approval.

Such were the services he rendered his fellow inmates that he became, in the words of a guard, "mother, father, priest and social worker for some fifty prisoners in a convalescent tier in the jail hospital to which he had been assigned as 'barn boss.' " And so stories of what he had managed to do for this one and that one were said to have become legendary.

But, said the law, he was once a criminal. He must die. And so it was. The State—you and me, and the rest of us that make up our social body, took his life. The deed rests on the conscience of us all.

We have given lengthy space to three personal cases for they talk louder than all the arguments and statistics that can be mustered in support of the abolition of the death penalty. The facts on which arguments are based are charged with feeling, with emotion, with compassion which, in turn, become the driving force to action. Intellectual acceptance of a truth is not alone sufficient to ensure its becoming effectively operative. There must be a feeling about it and a genuine desire to translate it into action. The light of the mind must become linked to the warmth of the heart. Hence personalized principles become our most effective teachers.

CHAPTER V

ARGUMENTS PRO AND CON

Functions of Punishment

Capital punishment must be considered in relation to the functions of punishment as a whole. These fall into three categories; retribution, reformation and deterrence. Retribution, or the vengeance of society, is still powerfully active, but civilization has at least got to the point where it shrinks from admitting to itself that the desire for revenge is present and that it sometimes asserts itself with great force. There are those who contend that whether it be admitted or even recognized, criminal law has taken shape under the unworthy motives of retribution rather than those of rehabilitation and protection of society. 'The law does reflect the concept that every murderer forfeits his life because he has taken the life of another. But since vengeance can no longer be defended as a justification for imposing the death penalty, and as an executed man cannot be rehabilitated, the case for or against capital punishment rests alone on its efficacy as a deterrent to crime. This last stand, as previously noted, is now proven to rest on shaky ground and is, in fact, approaching complete collapse.

A brief summary of the principal arguments against capital punishment runs about as follows: The death penalty is a remnant of barbarism; it does violence to the sacredness of life; it is a denial of the highest ethical concepts and the law of love as taught in Christianity and other world religions. It has also an adverse psychological effect upon public officials who, dedicated to the task of rehabilitating criminals, must perforce thrust aside the nobler sentiments when called upon to carry out the gruesome task of cold-bloodedly taking the life of a fellow human being. Then there is also the demoralizing effect it has upon the social body. It is not a proven deterrent. Then there is the irreparability of the law's miscarriage under which an innocent person is put to death. Also there is the disrupting effect it has on the administration of justice and the law's grossly uneven application.

While most of these arguments were set forth in Governor Brown's quoted message, their amplification at certain points may serve to further emphasize their importance and their validity.

The first and foremost consideration is whether or not capital punishment deters crime.

Capital Punishment Not a Proven Deterrent

Perhaps the greatest difficulty in winning the support necessary to abolish the death penalty is the belief on the part of many law enforcement officers, and no small part of the general public, that it is an effective deterrent and that in view of the alarming increase in crime during the past few years there is more reason for its retention now than ever before. To remove it under present conditions, they argue, would have the effect of letting down the bars that have been raised against the criminally minded and thus lead to yet greater lawlessness.

But the accumulating evidence to the contrary is impressive and is regarded by many as highly convincing. That the death penalty does not deter capital crimes appears to be the testimony of history, the verdict of many criminologists, and the findings of various committees that have made exhaustive study of the subject. Statistics support the conclusion and experience is said to verify it.

In discussing capital punishment before a Seminar of the South-western Homicide Investigators at the University of Oklahoma in June, 1960, Dr. Le Moyne Snyder, a nationally famous medical doctor and lawyer declared that "it has no effect whatever in preventing homicides. A great many people," he added, "who had formerly taken capital punishment as a necessity now doubt that it is the answer to anything." He also said that it is much easier to get convictions in States that do not have capital punishment than those that do.

In the Reader's Digest article previously referred to, mention is made of the practice in England a couple hundred years ago of hanging boy or man for the slightest offense—for no more than stealing a spoon or being caught fishing without due permission. Hangings were familiar sights, but they did not lessen crime. Apparently they had the opposite effect of implanting the seeds of offense into the minds of beholders so that in receptive soil they brought forth more evil fruit of their kind. This would seem to be borne out by a report issued by a British prison in Bristol that of a hundred and sixty-seven men awaiting execution, a hundred sixty-four had witnessed a previous hanging.

Another instance cited is that of an Ohio prisoner who as an inmate helped design the chair in which condemned persons were electrocuted. When later he was set free he was not held back from

committing a crime that placed him in the very chair he had helped frame.

As already stated, the simple fact is that the abolition of the death penalty has not been followed by a rise in capital crimes in any of the states and nations where it is no longer in effect. In the words of California's State Senator J. E. McAteer, testifying at the Sacramento hearing on the question of abolishing the death penalty, "it just stokes the fire of animosity and hate, and does not deter killers." It is also contended that it is the swiftness and certainty of punishment, not its severity, that deters.

Granting that in some cases the fear of an ignominious death is a positive inhibition to the commission of a capital crime, against this there is also to be taken into account the circumstances that when the crime committed is a capital offence other than killing, such as rape or kidnapping, the threat of death may actually encourage murder. After a man has raped or kidnapped someone, he may be more likely to cover up his crime by murdering his victim since he may then escape the vengeance of the law altogether; and if not, his penalty can be none the greater for his double crime.

Arguments favoring the retention of capital punishment go something like this. The death penalty restrains some that are homicidally inclined; that the alternative of life imprisonment is not less cruel and much more expensive; that no lesser meaningful restraint would be available to "lifers" who might turn murderously on some fellow prisoner or an attending guard; and that it would frustrate the vengeful impulses of an outraged community that would in consequence resort to a lynching or some other form of killing.

Granted that there is substance to all of these arguments, the position of the abolitionists is simply that there are both more and weightier arguments on the other side of the question, and that in this imperfect world of relative values one must choose the line of action that reason and conscience dictate as promising the most lasting beneficial results. We long since learned that to hang people for stealing did not prevent theft. No more has the killing of murderers prevented murder. Capital punishment is not the answer.

The movement to abolish the death penalty in the name of the sacredness of life comes today not just from scattered idealists and reformers, nor, again, only from minority pacifists and religious groups; nor is it a clamor heard chiefly in some particular community that has become emotionally involved, an hysterical cry arising out of a momentarily sensational event or circumstance. It is rather the evidence of feelings and convictions on this particular subject

that have developed not just from the impact of one or more singularly arresting cases such as those we have described, but out of the universal evolutionary impulses that impel the race, consciously or unconsciously, to outgrow the red claw and tooth of animalism and to show increasingly its divine nature which knows that "the sons of man are one," and that, however far one of our brothers may have fallen from the good life, we are called upon under the higher law to be his faithful and helpful keeper.

Demoralizing Effects of Executions

It is not only the criminal that is to be considered in applying the death penalty. The community that prescribes and executes the penalty suffers also from its demoralizing effect. Trials where life is at stake become sensational spectacles, affecting adversely everyone connected with it, in varying degree according to nearness to the case, from the judge on the bench, the jury in the box, the witness on the stand, the onlookers in the court room, and the general public as it follows the case through the popular news media. Such exhibitions, besides adversely affecting the administration of justice, arouse undesirable emotions and baser instincts, with the sum total effect of increasing offences against law and order instead of realizing their intended purpose of lessening them. The State sets a bad example. Criminology is not without records of mentally disturbed persons committing murder under the stimulation of emotions arising from dwelling upon the very horror of executions. Such was the case of Henry Busch, executed by the State of California in 1962 for two murders, both motivated by the death penalty. The first killing was on the very day of Chessman's execution, the second after seeing the movie "Psycho." Obviously here was a case for the hospital, not the prison; it was for healing, not killing,

Another case to be cited in this connection is a crime committed in California exactly after the Chessman pattern and in less than three weeks after Chessman's execution. Three men, referred to in the newspapers' report as more "red light bandits," used the policeman's approach to halt a car in the dark of the night, with red light signals. The three women occupants of the car were taken forcibly into a field, assaulted, and then abandoned with the threat that if they returned to the road before morning they would be killed.

In further support of the contention of some criminologists that there is statistical evidence to prove that widely publicized executions result in more murders rather than fewer, is the increase in kidnappings that followed the Lindbergh case even though a number of states had then adopted the death penalty for this crime.

Prison Officials Supporting Abolition

Most prison officials are against capital punishment. They have observed and experienced its horrifying effects. As previously observed, while called upon to help rehabilitate the persons who come under their charge, they must at times carry out a cold, calculated, scientific killing of someone they have tried to redeem, and sometimes apparently succeeding in doing so. We have cited one such case, namely that of Paul Crump. Former San Quentin Warden, Clinton Duffy, born on the prison grounds and a participant in 150 executions, said he is against the death penalty because the inequality of justice was apparent. "There are 712 men in California prisons serving life sentences for murder," said Mr. Duffy at a hearing held by the California Legislature. "They didn't make Death Row, yet their crimes were worse in many cases than those of some of the men on Death Row."

Nor did Mr. Duffy believe capital punishment was a deterrent to crime. "I've asked every man on the Row during my years at San Quentin whether he thought of the death penalty before committing his crime, and I have yet to hear the first man say he had." He said he had talked to thousands of prisoners, all telling him they weren't restrained by the thought of the death penalty. On this point, former Chief of Police of San Francisco, Michael Riordan, and others testified to like effect.

Studies in criminology have presented ample statistical and psychiatric evidence to show that most capital offences are not committed by the criminally minded but as a result of a mental illness, an uncontrolled temper under some great provocation, and by sheer accident. Such a study by a committee of the Legislature of Delaware

found that half the murderers who had been executed in that state had no previous criminal record of any kind. It is also to be noted in this connection that many capital crimes are directly attributable to demoralizing environmental influences for which society at large is primarily responsible. The products of such conditions call for compassionate treatment aimed at healing and restoring the afflicted, not vengefully removing them by death.

Referring again to the inequity in the application of the death penalty: famous criminal lawyers seldom fail to keep their clients from execution. To quote the *Reader's Digest*: A high-priced Texas lawyer defended 200 murderers, only one of whom was executed, and he confessed that this one was no more guilty than those he had set free but that he "just didn't work his case right."

Also, about one murder out of every seven is committed by a woman; yet only one woman a year, on an average, is executed in the United States. There is a case on record in Texas of a woman who under the State law had incurred the death penalty for having committed murder no less than eight times, yet, because Texas prided itself on never having executed a woman—and wished to maintain this degree of humanity—sentenced her not to death but to life imprisonment. Yet murder is murder. No doubt it is to man's credit that he still attributes to womankind the finer, more sensitive qualities, and that even when a member of this sex descends to the commission of the most heinous of crimes, he feels it would be utterly brutal and inhuman to condemn her to death. So strong is this feeling that womanhood must not be desecrated by the imposition of the death penalty that juries will almost invariably, as in the Texas case cited above, defy the law. With all deliberation it is usually over-ridden under a compelling sense of decency and human-

This points the direction leading to the next stage in overcoming man's inhumanity to man. What man now sees even in the basest feminine criminal is womanhood—and womanhood is held to be something sacred. Hence he spares her the horror of the death penalty. The time approaches when this position which man now takes toward womanhood will be extended equally to manhood. Manhood, no less than womanhood will be recognized as sacred and divine, and it will be seen that no member of either sex, however evil or depraved, can be subjected to an act of inhumanity without inflicting an injury upon the composite body of mankind of which he is a part. When enough people realize this the death penalty will be no more.

It is because of the arbitrary and discriminating application of the law that a Massachusetts' Commission once said that it thought it "better to have two murderers sent to prison than to have one executed and the other set free as so often happens under the present law."

There is no guarantee that innocence will be discovered before execution. In some cases it is, in others not. California courts discovered six innocent persons on death row from 1942 through 1957. When they are not so discovered the miscarriage of justice is irrevocable. Former Warden Duffy of San Quentin, previously quoted, stated at the time the California Legislature was debating the question of capital punishment, in 1960, that in the Nineteen-Thirties when the secretary of a California Governor had telephoned to ask that the execution be stopped because of new evidence, the message came just as the trap door of the scaffold was sprung: There is no undoing such a deadly wrong. It was a wave of shame and remorse following just such a miscarriage of justice that led Maine and Rhode Island to abolish capital punishment.

In a recently published paperback titled *One Man's Freedom* by E. B. Williams one section on capital punishment includes a consideration of executions and near-executions of innocent persons.

CHAPTER VI

PROGRESSIVE ABANDONMENT OF THE DEATH PENALTY

Many of the European countries abolished the death penalty long ago. For example, there has not been an execution in Luxemborg since 1822; in Finland since 1826; in Rumania since 1838, excepting in the revolution of 1918; in Portugal since 1867; in Norway since 1876; in Denmark since 1892 and in Sweden since 1910. More than a century ago Belgium did what she now implores the United States to do. Except for one execution during World War I, Belgium has not had an execution since 1863.

More recently the following European States abolished the death penalty: Austria, West Germany, Iceland, Italy, Israel, Switzerland and several smaller countries.

In Latin America the movement toward abolishing capital punishment has been gaining in momentum during the past few years. Venezuela enacted the reform more than a century ago, in 1863. Costa Rica followed in 1880 and Ecuador in 1897. After the turn of the twentieth century Argentina, Brazil, Columbia, Uruguay and Panama took like action. The Dominican Republic abolished the death penalty in 1924 and and Puerto Rico in 1929.

From the foregoing facts it is not surprising that the peoples of Latin America pleaded so passionately for the life of Chessman. The then Secretary of State Herter commented on the high feeling he encountered on the subject wherever he went, and the extent to which it was damaging the prestige of the United States abroad. He observed that the seriousness with which our Latin neighbors were taking the case revolved not so much around the fate of an individual as it did around the national character of its supposedly more advanced neighbor to the North. According to Mr. Herter it was the United States that was held up for judgement in the eyes of the peoples of South America.

There is also the consideration which must not be overlooked in substituting life imprisonment for the death penalty. Aside from the humane obligation to provide every possible chance for a criminal's rehabilitation, there is the positive contribution such individuals may then make to the common weal, even if confined behind bars for life. A notable example of such a case is that of the late Robert Stroud who became so widely known as the "Bird Man of Alcatraz." An article about this amazing character appeared in *Life*, April 11, 1960. It was titled, "Prodigious Intellect in Solitary." This man had

at that time spent more than fifty years continuously behind the bars and forty-three of these in solitary confinement, yet he became creative and productive. Entering prison at nineteen, he educated himself to the point of becoming a scholar and scientist of no mean ability. His most notable achievement is his work titled *Stroud's Digest of Diseases of Birds*. It represents the results of twenty years of study and experiments with canaries in his cell at Leavenworth. He became a recognized authority on the subject.

Later he produced a two-volume work dealing with prisons, prisoners and penology in which he wrote from experience and observation, as well as from study of the subject. Nothing more is known about this manuscript than its retention by prison authorities.

Stroud was sentenced to die for having taken two lives; the first, a cold, deliberate killing of a prison guard, also a cool, calculated, pre-meditated slaying. He confessed that the death penalty had no effect whatever on what he had done. Because of the constructive use he was making of his time, President Wilson commuted his death sentence to life imprisonment.

Here there was no question of guilt. Two lives had been taken in cold blood. The murderer was unrepentant. He could not be set free, but he could be saved, as he was, from the death penalty, undoubtedly to his benefit and society's gain.

From Barbarism Toward Civility

Note the long range trend away from capital punishment. In ancient Babylon, for example, under the laws of Hammurabi capital punishment was administered somewhat indiscriminately. Later in ancient Israel the supreme penalty was definitely limited to specific crimes and the idea of degree of guilt entered into the administration of justice. This was an advance.

Despite what may be said of early Druidic laws, the common law of the Anglo-Saxons was notably humane; even murder might not necessarily carry the death penalty, and these people resented the severity of the Roman law which was imposed upon them, and still more the bitter injustices and tortures of the laws connected with the Inquisition after the thirteenth century. The old merciful folk laws were nevertheless later set aside in favor of a legal code which prescribed the death penalty for virtually all felonies. As previously observed, these included offences of the most trivial nature. It is also to be noted that in early times the death penalty was prescribed chiefly for crimes against property, not life. This fact alone is proof of how values have shifted in the course of the centuries from mere possessions to life itself. This trend has paralleled a growing human-

itarianism. An increasing racial civility is little by little abandoning a practice carried over from a more callous, primitive past.

By the turn of the eighteenth century the list of capital offences had been reduced to a hundred, by 1837 to only four. But the trend toward the abolition of the death penalty went further than these figures indicate. The theory of the law was more severe than its practice. Of the two hundred listed offences the penalty was never inflicted for more than twenty-five, and when the number was reduced to four in 1861 only two have ever been put into effect. The two were for murder and treason.

This variance between theory and practice in the imposition of capital punishment remains true to this day. In recent years the number of executions in the United States has fallen abruptly. Over a period of years up to 1950 there were an average of a hundred and forty a year. In 1959 while there were eight thousand murders there were only forty executions. The sober fact is that the commission of an act by the State which it condemns in an individual is becoming more and more abhorrent. The feeling is becoming increasingly pronounced that it is an anachronism, a relic of barbarism which by this time should have been completely outgrown.

Thus theory and practice do not always go hand in hand. The heart will not always sanction what the mind may conceive. An abstraction can be calmly entertained which upon actual precipitation cannot be endured. It has been so in connection with capital punishment. To provide for it in a legal code is one thing; to carry it out in practice is quite another. Hence it has now come about that the laws pertaining to the death penalty are more often honored in the breach than in the observance. California, for example, while retaining the death penalty, did not have a single execution from January 23, 1963 to the time this is being written in mid-1965.

Efforts to limit or abolish capital punishment has a long history in the United States. The Quakers have been in the forefront in this cause from colonial times to the present day. They were the most active and influential of the groups working for abolition of the death penalty at the time of the Chessman case, when the tide was running high in favor of further humanizing our penal practices. Positive results of their efforts go back to 1794 when they succeeded in persuading the Pennsylvania Legislature to distinguish between degrees of murder and to limit the death penalty to first degree murder only. This was one of America's earliest gains in the continuing trend toward tempering man's inhumanity to man by invoking the qualities of mercy.

THE OLD DISPENSATION AND THE NEW

Criminal Law in Ancient Israel

A study of English criminal law shows that it followed the code of Ancient Israel so closely as to suggest a relationship between the two. And so there is. Britain, like ancient Israel, lived by the law codes of the Hebrew Bible for a time. But for modern society to justify the perpetuation of the death penalty because it was ordained for certain crimes in ancient Israel is to hold to the letter that killeth instead of the spirit that giveth life. The argument cannot be logically sustained. Not even the sternest adherent of the old Hebraic law would uphold for our time the full criminal code of ancient Israel. By its decrees capital punishment was mandatory for murder, adultery, kidnapping, blasphemy, cursing father or mother, incest, rape, desecration of the Sabbath, idolatry, unchastity and witchcraft. It also imposed the death penalty on a leader who undertook to turn people from following the Lord, or a rebellious son who had become an habitual drunkard. Also it is written: If an ox kill a man or a woman, the ox shall be put to death, but if the owner was aware of the fact that the animal was vicious, then the owner would be guilty and subject to the death penalty. Death was also decreed for the man who refused to abide by the judgement of the Court of Appeals.

Not even those who insist on an acceptance of and obedience to every "jot and tittle" of the law as found in both the Old and New Testaments would accept this code as suitable and right for our time. The exact conditions under which it came into being no longer exist, or they have been so modified by advancing civilization as to render literal compliance with its every specification out of the question. The ends aimed at by this code have not altered but the means by which they can best be attained have been greatly changed. They have changed because the consciousness of man has changed. Like all else in the universe human consciousness undergoes an evolution. It unfolds, expands, takes on different and added qualities. Such is the progressive state of man.

Thus the provisions in Leviticus, the Book of Law, were adapted to the needs of a primitive people. They belong to another age. It

long since became unthinkable to apply the death penalty for most of the felonies and weaknesses demanding such drastic punishment under the legal ordinances of the Old Dispensation. Few of these still remain on the statute books anywhere in the world and the time is fast approaching when they, too, will be stricken from the deadly code.

Take for example the law pertaining to kidnapping. For ancient Israel it read: "If a man be found stealing any of his brethen... and maketh merchandise of him or selleth him, then that thief shall die." In all Christendom, kidnapping is no longer held to be a capital crime except in some parts of the United States, where it was restored after the Lindbergh case. It was under this law of primitive origin that California exacted the life of Caryl Chessman, though the law had in the meantime been repealed.

New Dispensation—Love the Fulfilling of the Law

Life is not static. It goes forward. Principles must be accommodated to the changes that are continually taking place in the inner and outer life of man. As civilization advances, specific laws governing social conditions and human relations undergo appropriate modifications. When the time arrives for some basic revisions, if unduly obstructed they will ultimately come about through a major upheaval or violent revolution.

It is paradoxical that there should be opposition to the abolition of capital punishment in areas wherein the world naturally expects to find the most ardent of all abolitionists, namely within the body of Christianity itself. This is in clear contradiction to the true spirit of Christianity which underlies every humanitarian reform and altruistic impulse. The spirit of Christ is love in action. It is a cosmic power that has been operative in the evolution of mankind from the beginning of time but which increased mightily in potency when the "Word became Flesh and dwelt among us" in the divine-human individuality of Christ Jesus.

The reason for the contradiction between the stand taken on capital punishment by certain Christians and contrary to the spirit of the Christ as enunciated in the Sermon on the Mount is of course to be found in the fact that Christianity has included in its Bible the Scriptures of both Old and New Dispensations. It embraces the Hebrew Bible centered in the Law of Moses along with the Christian Gospels centered in the Love of Christ. According to the former there was the severe stipulation that "if any mischief follow, then shalt thou give life for life, eye for eye, tooth for tooth, hand for

hand, foot for foot." Compare this with the later law of Christ, the Lord of Love: "Ye have heard that it hath been said, 'an eye for an eye and a tooth for a tooth;' but I say unto you, resist not evil; but whosoever shall smite thee on thy right cheek, turn to him the other also. And if any man sue thee at the law, and take away thy coat, let him have thy cloak also, and whosoever shall compel thee to go a mile, go with him twain...

"Ye have heard that it hath been said. Thou shalt love thy neighbor and hate thine enemy. But I say unto you, 'Love your enemies, bless them that hate you, and pray for them that dispitefully use you and persecute you."

This was inculcating a course of action that had now become possible for all who were willing to take up the cross and follow the Christ. It was demanding a line of conduct not yet within the reach of the ancient Israelites. Only by the sternest, severest disciplinary measures could they be conditioned to carry out the mission which destiny had imposed upon them, namely, to establish in the course of the centuries the necessary environment in which the Divine Incarnation could take place. The time has now come for humanity to lay hold of the eternal truth that violence cannot be brought to naught by violence, that hate ceases not by hate, that one wrong cannot be righted by committing another. Like begets like. Evil can be permanently overcome only by reversing the process under which it operates. Counteracting forces must be set in motion. This is what the Christ emphasized in His Sermon on the Mount, Love your enemies and thus disarm them; bless them that curse you and thus draw the sting from the wounding tongue, and so on.

Moses gave to the world ten commandments. To these ten the Christ added these two: Love the Lord your God with all your heart and soul, and your neighbor as yourself. Said He, Love one another as I have loved you. Thus the ten commandments of Moses were brought up to form the cosmic twelve.

The law of love bestows grace and mercy. No grace was shown under the law of Moses which, as St. Paul asserts, was as a school-master to bring us to Christ. Thus we see how the Christian Dispensation builds on the one immediately preceding it. It advances humanity another step on the upward way. Hence in the precepts inaugurating a New Dispensation the Christ said: "Think not that I am come to destroy the law or the prophets; I am not come to destroy but to fulfill." To which may be added Paul's assertion that "He that loveth another hath fulfilled the law." The Christ incarnated the divine principle of love and demonstrated the line of action

it would take in fulfilling the law. Buddha had defined love, he had made known its nature. The Christ embodied it. He was one with it. God is Love, and Christ incarnate made God the Father known to man by His presence in human form. Thus when Christ Jesus was asked to pass judgment upon an adulteress it was not a pronouncement of death according to the Mosaic law but one of compassion and forgiveness under the higher law of love. The incident offered the Master an opportunity to bring to the minds of the accusers the fact of distributed guilt. "He that is without sin among you, let him first cast a stone at her." To this they had no answer; they took no action. Guiltily, one by one, they quietly slipped away.

The Lord Christ vastly broadened the base of guilt as defined in the Mosaic law, even as He expanded the corresponding law of grace. Said He on another occasion: "Ye have heard that it was said by them of old time, Thou shalt not commit adultery; but I say unto you that whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart." In the words of St. Paul, paraphrasing a line of David's, "There is none righteous, no, not one."

Under the Mosaic law the woman taken in adultery had incurred the penalty of being stoned to death. That was the judgment the accusing legalistic Pharisees expected to hear from Jesus. It was not forthcoming. Christ Jesus had come to enunciate a new and higher law, the law of love. He condemned sin, but not sinners. Hence His dismissal of the adulteress with the words, "Go, and sin no more."

When the Christian doctrine of sympathy, compassion and forgiveness replaces the baser reactions of condemnation and vengeance there will be no more torture chambers and no more punishment by death. A lower code of human relations will have given way to a higher.

Someone may well ask how it can be successfully maintained that the death penalty is not a deterrent to crime when it was prescribed not only for murder but for numerous other offences as well by the Lord God Jehovah Himself. No one presumes to question the wisdom and judgment of Israel's Race God. Granting, then, as Christians do, that the extreme penalty was necessary to the proper development of the "chosen race," why is it not equally effective today?

The answer has already been given. Ordinances suitable to one age are not equally fitting for another age. As previously stated, the ancient Israelites were a primitive people. Their stage of evolution has been outgrown. What served as a deterrent to crime in the child

stage of evolution ceases to serve as such at a more advanced one. It now appears that we have reached that stage, at least to the degree that deterrence plays too small a role to justify the retention of the death penalty. The simple fact is that it rests on the false premise that violence must be met by violence. But it is not thus overcome nor diminished; it is perpetuated and increased at a moral cost to the community tolerating it.

CHAPTER VIII

TESTIMONY OF SPIRITUAL SCIENCE

Arguments based on studies into the causes of crime, including those of heredity and environment, have been quite sufficient to induce governments to apply the death penalty to less and less crimes up to the point of abolishing it altogether. Yet the most decisive of all arguments are those provided by psychic and spiritual science.

The occult factors bear out the validity of all the arguments put forth from the findings in the field of social science and open to view others of a more compelling nature. It possesses the facts that show exactly how the execution of criminals does not protect society from further depredations and moral dangers but actually leads to their increase.

No issue or problem can be envisioned in its wholeness if viewed solely in its external aspects. Unless the inner and life side of nature is also taken into consideration the full and true answers and solutions are not attainable. Man lives not alone in his physical body nor in this outer material world. As a spiritual creature his life is also linked to the supersensible planes of being. Man labors fumblingly in a half light only until his eyes are opened to what also proceeds beneath the surface of material existence.

From the occult standpoint capital punishment is the worst possible means of dealing with criminals. The results are exactly opposite to those intended. The criminal has not been destroyed; he has merely been deprived of his physical body. As a conscious entity he survives. He has been set free. His character has not been instantly changed due to transition. If criminal propensities had not been corrected and overcome before his execution they persist after crossing over to the other side of life. There he finds himself automatically drawn into areas of vibratory frequencies that act to purge him of qualities that run counter to divine law. This is what we know as purgatory. It is not a sphere in which arbitrary punishment is put into effect; it is a corrective realm, a condition in which the perfect law which is at one with the law of love effects a soul cleansing, a character correction, a spiritual rehabilitation in preparation for later progression on higher planes of consciousness in the interim between death and rebirth. Then on returning to earth life for further experience and unfoldment of yet undeveloped powers,

his new day begins with fresh opportunities for advancement on the upward path.

From spiritual scientists who have investigated these conditions in the soul world we learn that criminals who have been violently thrust out of their bodies remain "earthbound," that is, they tend to cling to the scenes of earth, as full of hatred as before, and thirsting for revenge. They are automatically drawn to the lower astral levels to which their evil nature draws them and holds them until such time as they are spiritually rehabilitated. Meantime such discarnate egos are in a position to influence psychically negative and criminally disposed individuals to commit crimes that they had planned to execute had they not been restrained by imprisonment and death. Moreover, they might now have the evil desire to take vengeance on society generally for having deprived them of their natural span of life. As we read in the Oaspe Bible, in the vengeful "slaughter of your fellow man, ye are also peopling heaven with spirits of vengeance. And they will turn upon you... Thus saith God." So long as man is in his physical body he can be confined where he can do no harm. This gives to society the protection it must have from the irresponsibly insane and the evilly disposed criminal.

Capital punishment, it will be seen then, does not only fail to give society protection from further deadly assaults upon it by an executed criminal but actually opens the door to the liberated spirit to incite others who have a grievance against society to enact all kinds of crimes. A vivid picture of such activity by disgruntled discarnates is drawn in a communication purportedly coming from Judge Hatch on the other side of life through the hand of Elsa Barker, as recorded in her book, Letters of the Living Dead Man. The recital portrays a group of American Indians engaged in an act of tribal magic aimed at generating and releasing deadly and destructive forces into the white man's community in retaliation for the wrongs they as a people have suffered at the hands of their dispossessors. After watching the weird ceremonial performed in what was regarded by the participants as fulfilling a compelling demand under the law of justice, Judge Hatch testifies to the fear he had for his country from such evil power entering into its collective life and impelling negative, disgruntled and evilly disposed individuals to the commission of crimes of which they might not otherwise have been guilty.

Imprisonment instead of execution also gives the criminal a chance to become rehabilitated while still in incarnation, with double benefit to both prisoner and society. To the repentant criminal it anticipates and lessens the fasting and firing purgatorial experience, and to society it offers freedom from the menace of a spirit loosed to vent its spite upon the world it left behind.

Few realize the debt which society incurs, collectively, when it allows the State authorities to put a human being out of his body in the circumstances attending execution. It is a disruption of a natural process by which the human ego evolves. It has the effect of throwing the ego back in its development. The shock of violent death and the horrors of execution are usually such as to rob the outgoing spirit of the benefit of the retrospective period that normally follows death, in which it reviews and evaluates the events of the life just past. Under normal conditions this self-examination extends over a period of about three days while the etheric double is still connected with the physical body by means of the magnetic "silver cord."

When the spirit is not unduly disturbed during these days of retrospection the record of the past life is transcribed from the etheric body into the astral body. It is the latter in which the ego functions in the inner worlds between death and rebirth. What was incorporated into it during the retrospection period becomes the basis for what is experieced in the inner life between death and rebirth. Transgressions of natural and spiritual laws in the life past are first reaped as pain. Thoughts, words, and deeds that were in harmony with the building forces in nature bear fruits of their kind. The astral body is first purged of its grosser elements. This accomplished, it rises to higher levels or into a state of accelerated frequencies in which it experiences the fruits of the virtues implanted into it in the course of its earthly sojourn.

The effects of these inner world experiences are carried over into the next life in the form of summarized memories. The ego has learned at least to some added degree that the way of transgression is hard, and that the practice of virtue is richly and joyfully rewarding. Details are forgotten, but certain "feelings" about them are carried over. Acts and attitudes that resulted in pain become conscience, which is the still, small inner voice that warns against their repetition in another life. Likewise, the satisfactions derived from past acts in harmony with cosmic law strengthen the impulses toward consonance with the Good, the True and the Beautiful. This is the method by which spiritual evolution is carried forward. What biological evolution is to the progressive development of the physical body, that reincarnation is to the unfoldment of the powers of the soul. When a community interferes with this cosmic process, it inevitably incurs the penalty of a cosmic delinquency, which must be

From what has been said it becomes clear that society does definite injury to the individual whose life it takes under circumstances attended by shock, horror, external disturbances, and a psychic atmosphere charged with negative and destructive forces. It not only severs prematurely the ego from its body, but does this under conditions that to a greater or lesser degree cancel out the benefits it would ordinarily have received from the experiences encountered during its earth life. This is a debt society need not incur; nor will it, when capital punishment has been abolished.

To the foregoing it may be added that under beneficent providential law the ego that passes out of earth life under conditions that deprive it of the means for carrying over into the after life the basis for learning and growing from it, reincarnates very soon after but only to die in childhood. From that stage of innocence the ego passes directly into the heaven world where it comes under the tute-lage of Forces of Light that operate in a compensatory manner for the loss suffered in the previous earth life. Love Divine underlies Law Divine. It is for human love to correspondingly underlie human law.

A Christian Impulse

As civilization advances life becomes more meaningful, more highly valued, more reverently regarded. In this age of expansionism man begins to function in new dimensions, both inwardly and outwardly. Consciousness experiences a fresh extension. It has done so in its growing awareness of the wonder, the beauty and the sanctity of life in whatever form it appears. A whole community will, for example, rally to save the lives of snowbound sheep or cattle, or come to the rescue of a household pet in danger of losing its life. It was not always so. Witness the gladiatorial contests in ancient Rome as a form of popular entertainment. Now human sensibilities have not only outgrown such inhuman exhibitions, but have almost universally outlawed such brutal sport as bull-fighting and the like, as too demoralizing to be tolerated.

While the Western peoples can lay no claim to having come far in creating a culture and civilization embodying in practice the precepts and principles enunciated in the Sermon on the Mount, they are what the late German philosopher Count Herman Keyserling once referred to as "biological Christians." In other words, there has been implanted in the Christian nations seeds of Christian ethics

that have in them the power of growth, and in the long passage of the centuries this growth may be observed in new and added sprouts which give promise of sometime developing into those celestial fruit-bearing trees beside the waters of life in a regenerated earth as envisioned by St. John.

Dr. Albert Schweitzer whose practical achievements, intellectual powers, cultural attainments and spiritual insight combine to elevate him to an eminence from which shines a light that adds radiance to the age in which he lives was in search of an absolute ethic which, if fully grasped and faithfully applied, would give to humanity a concept, a truth, a power by which it could greatly accelerate the development of its higher nature. That which he sought, he tells us, he found in a moment of inner illumination. The answer came in the simple words, *Reverence for Life*.

This phrase, with all that it implies, ethically, philosophically and spiritually, is Schweitzer's supreme gift to mankind. World figure that he is, the concept coined in those simple words, Reverence for Life, has found wide currency for its spiritual content and embodied idealism. A certain magic power attaches itself to such simple utterances of basic truths that they inevitably come to exercise a transforming influence on all who hear and heed them. From the few, this influence spreads to the many until it filters consciously and unconsciously into the mass mind. From impressions so received from above, the evolutionary forces are at work in gradually uplifting the collective body of humanity and instilling into it the understanding and the compassion that will ultimately bring about a changed attitude on the part of the State and human society generally toward the evildoers in their midst. The effort will be to heal rather than to punish, to redeem rather than to retaliate. There will be no condoning the taking of that which only God can give, a human life.

Capital punishment is on its way out. Life, not death, holds the last word.

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